S.B. Civil Writ Petition No.3242/06

The Managing Committee, Shrimati Gomati Devi College

Vs.

The Raj. Non-Government Educational Institutions Tribunal & Anr.

Date of Order : 25/04/2006

Hon'ble Mr. Justice Ajay Rastogi

Mr. H.S. Khandelwal, for petitioner

Instant petition has been filed against the order passed by the Rajasthan Non-Government Educational Institutions Tribunal, Jaipur dt.28th December, 2005 [Ann.3] whereby the respondent No.2, who served the institution for about 26 years, has been directed to be paid his gratuity along with interest @9% in terms of Rule 82 of the provisions of Rajasthan Non-Government Educational Institutions Act & rules framed thereunder.

Brief facts for adjudication of the dispute are that the respondent No.2 served the petitioner-institution for almost 26 years and retired from service on attaining the age of superannuation in the month of June, 1997 and for satisfactory service rendered by him application was submitted for release his gratuity in terms of Rule 82 of Rules, 1993 before the Tribunal. The petitioner filed reply and raised objection that it was an aided institution earlier, but the competent authority vide order dt.9th December, 1997 has deleted

their name from the list of aided institutions, as such they are not under an obligation to pay gratuity to their employees since Rule 82 of Rules, 1993 is applicable over such institutions which are receiving aid from government.

Learned Tribunal after taking into consideration material, recorded a finding in Para 16 of the order impugned that the period during which the respondent herein worked it remained an aided institution and non-compliance of orders/direction of the Government, initially their aid was withheld w.e.f. 1st November, 1996 and since orders were not complied with, finally the government vide its order dt.9th December, 1997 deleted the name of petitioner-institution from the list of aided institutions and once the employee has reserved in an aided institution, he is entitled for payment of gratuity in terms of Rule 82 of Rules, 1993 and finally directed the petitioner to make payment of retiral dues to the respondent herein under the order impugned dt.28th December, 2005 [Ann.3].

Counsel for petitioner submits that on the date the respondent was retired from service, it was not an aided institution, as such provision of Rule 82 of Rules, 1993 will not be applicable and they are not under an obligation to make payment of gratuity to respondent herein even if he has served during the period when the

institution was aided institution and the finding recorded by the learned Tribunal with regard to applicability of Rule 82 of Rules, 1993 is not legally sustainable and requires interference.

In my opinion, the submission made is without any substance. The respondent herein undisputedly has served the institution during the period when the institution was aided institution and only for non-compliance of certain directions of Government, their aid for a short period was withheld from 1st November, 1996 and their name has been deleted from the list of aided institutions vide order dt.9th December, 1997. So far as respondent herein is concerned, he retired from service in the month of June, 1997 prior to passing of order as referred to above and apart from it, the petitioner-institution has failed to comply with the orders of Government and for such good reason, if grant is withheld, the institution in no manner can claim that they are not aided institution for the purpose of complying with the beneficial provision of Rule 82 of Rules, 1993.

I do not find any error in the finding recorded by the Tribunal with regard to payment of gratuity for the service which the petitioner has rendered in the petitioner-institution, which is duly supported with the material on record.

Consequently, the writ petition fails and is hereby dismissed.

[Ajay Rastogi],J.

FRB